

This document consists of 2 pages
DEPARTMENT OF STATE
ASSISTANT SECRETARY

October 20, 1959
16

TO: The Secretary
THROUGH: S/S
FROM: EUR - Foy D. Kohler *FDK*
SUBJECT: Transmitting GER Memoranda on Substantive Preparations
for Summit Meeting

762-60
762c.622
In accordance with your request, there are transmitted here-
with (a) a GER memorandum on substantive preparations for a Summit
Meeting, together with its enclosure discussing possible Berlin
proposals; and (b) a GER memorandum, together with its enclosure,
discussing the possibility of adding an Oder-Neisse initiative by
the Federal Republic to possible Western proposals on Berlin.

Attachments:

Memorandum - Substantive Preparations
for a Summit Meeting (with enclosure) (Tab A)
Memorandum - Addition of Oder-Neisse
Initiative (with enclosure) (Tab B)

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EUR - Mr. Foy D. Kohler

October 16, 1959

GER - Martin J. Hillenbrand

Substantive Preparations for a Summit Meeting; Transmitting Memorandum
Discussing Possible Berlin Proposals

In order to facilitate substantive preparations for a Summit meeting (meetings), GER has prepared a preliminary study of possible alternative proposals on Berlin. No attempt has been made at this stage to list these in order of acceptability, although certain arguments pro and con are noted where relevant. The purpose of the memorandum is to stimulate discussion within the Department and to prepare the ground should eventual policy decisions be taken to move beyond the Western proposals of July 28 at Geneva.

We have tried to take account of the President's desire for "new ideas". We have not, however, discovered any which could unqualifiedly be so described. They are not easy to come by on a theme so fully explored as Berlin. New juxtapositions and combinations of formulae may, however, provide an element of novelty. Some of the possibilities discussed have never been publicly aired and thus, if ever adopted by the West, would represent new, and in some cases radically new, positions. Where possible the original drafting officers in the Department have been given credit for specific Berlin proposals.

The various proposals do not include any Oder-Neisse initiative by the Federal Republic, as suggested by Mr. Murphy today. A separate paper is, however, being prepared discussing the possibilities of "sweetening" Western proposals with such an initiative. It is, of course, theoretically possible to inject this into any of the Berlin proposals attached to this memorandum. The big problem will be to get the Federal Republic to do anything on this in any context.

A Western proposal on Berlin should ideally contain the following elements:

1. It should represent a serious effort to provide the Soviet Union with a way out of the present impasse on Berlin in case the USSR is seeking one without sacrifice of basic Western interests.

2. It should provide Western protection for Berlin against Communist coercion or threat sufficient to maintain Berlin morale. The essential element here appears to be the continuing presence of Western troops in Berlin with unrestricted right of access symbolizing an explicit Western commitment to defend the city.

3. It should

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3. It should continue unimpaired the economic and political ties between West Berlin and the Federal German Republic without which Berlin would cease to be viable.

4. It should appeal to the public in the Free World and in the non-committed world.

Should Berlin be Discussed in Isolation?

An important initial question is whether the Western Powers should be prepared to discuss the Berlin question in isolation or should, as they did at the beginning of the Geneva Conference, continue to attempt to place it within the framework of a general German settlement. After the presentation of the Western peace plan at Geneva, it quickly became apparent that any discussion of German reunification would be completely check-mated by Soviet insistence on discussing a peace treaty with Germany, or with the two Germanies, and the Foreign Ministers thereafter moved on to a discussion of the Berlin question by itself.

The decision whether or not to press at the Summit for discussion of German reunification is a difficult one. Not to put reunification in the forefront runs counter to the post-war Western tradition of insisting that its discussion should take priority over other aspects of European settlement and that failure to address themselves to this subject is tantamount to avoiding discussion of the one subject without a solution to which there can be no lasting settlement in that area. Yet there are some fairly cogent reasons for maintaining that, from a tactical point of view, the current situation does not require such emphasis on reunification to the detriment of the achievement of other objectives. To begin with, it is quite clear that Chancellor Adenauer and other prominent members of the Government of the Federal Republic do not consider that any progress towards reunification is possible at the present time. It is true that a number of statements have been made by certain German leaders, notably Willy Brandt, indicating that they would oppose discussion of the Berlin issue outside of the framework of reunification, but there is some evidence that this is largely lip-service to a tradition. We have, for example, reports that Brandt has privately expressed the view at a meeting of the SPD Presidium that it would be better if the Soviets and the Americans could first settle the Berlin question without having it burdened by the reunification problem.

In practical terms, one of the major problems at the Summit will be to agree on a directive to the Foreign Ministers or their Deputies for continuing discussion of the Berlin and other questions. The lengthy discussions at Geneva in 1955 on the contents of a directive will be recalled, together with the continuing dispute in the subsequent years as to the precise commitment which the Soviets had undertaken on the reunification question in this directive. It seems highly unlikely that the Soviets would at a new

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Summit meeting agree to any directive which implied continuing four power responsibility for reunification. This would run completely counter to the position which they have steadily maintained in recent years -- that responsibility for reunification is necessarily that of the two German states. Any attempt on the part of the Western Powers to insist on discussion of the reunification issue is likely to be met as at Geneva in the summer of 1959, by Soviet insistence on discussing either a peace treaty or an all-German commission.

On balance, therefore, it seems that the West should be prepared to discuss the Berlin question at the Summit without insisting on a prior agreed formula for handling the reunification question. The West should, of course, reaffirm its offer of the Western Peace Plan and make clear that this is open for discussion with the Soviets any time they wish to take it up. Tactically, moreover, the Western Powers should be ready to put the Peace Plan forward as a counter to any Soviet attempt to discuss the peace treaty or an all-German commission at the Summit, but they should not insist on having an endorsement of its approach written into a Summit directive.

Basic Policy Decision on Substance

An important decision which the Western Powers will have to make before entering a Summit meeting is whether they desire to proceed along the lines of the final Western proposals on Berlin of July 28. This, in essence, proposed a standstill for an agreed period of years during which certain adjustments might be made in Berlin but at the conclusion of which negotiations on Berlin would resume with the legal position of each party substantially unimpaired.

As indicated in the attached memorandum, there are three broad categories under which new proposals on Berlin might be put forward. Under each of these there are several possible variants. The first category is the least extreme, and includes an alteration of the standstill formula proposed on July 28. The more extreme proposals in the second and third categories would involve a basic revision of Western policy. The third category, dealing with possible new proposals in the reunification field is discussed briefly merely for the sake of completeness, since it does not appear to be an area within which agreement is likely to be reached.

Coordination with S/P

At the request of Mr. Merchant, S/P has completed a study of the Soviet proposal for a "free city", and is now taking a further look in an effort to ascertain just what elements of the Soviet proposal, if any, might be assimilated in an acceptable plan for Berlin, possibly along the lines of a "guaranteed city". We have been keeping in touch with S/P to avoid duplication of effort. The earlier S/P version of the "guaranteed city" is included in the GER study.

Attachments:

Memorandum and Tabs

EUR:GER:WJH:llanbrand/ETLampson:all

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CC: SOV - Mr. McSweeney
L/EUR - Mr. Kearney

CC: G - Mr. Merchant
S/P - Mr. Fuller
SOV - Mr. Davis

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POSSIBLE NEW PROPOSALS ON BERLIN

There are theoretically three general courses of action under which it might be possible to put forward new proposals on Berlin at a Summit Conference. Under each of these there are several possible variants. The first is to continue to insist that the Allied presence in Berlin must depend upon our rights derived from the defeat and unconditional surrender of Germany. The second is to substitute for allied rights a newly negotiated quadripartite agreement which would define the status of Berlin pending reunification. The third is to present new Western proposals on reunification of a more sweeping nature which would make a settlement more likely.

The various possibilities are discussed in the following pages.

1. Variations Based on Existing Allied Rights

A. Alterations on the Stand-still Formula Offered by the Three Western Powers on July 28. (For text see Tab A)

The Western Powers would propose a stand-still of less than five years during which present arrangements in Berlin would continue. At the end of this period negotiations on Berlin could be reopened at the request of any of the Four Powers. This proposal could be altered further by reducing the period of the stand-still. (See Tab B)

Three important considerations apply to this proposal.

(1) The first is the relative bargaining positions of the Western Powers now and at the end of a stand-still. If the West will be weaker vis-a-vis the Soviet Union then than now it may be advantageous either to try to negotiate a provisional solution for Berlin at this time or to make our stand on Berlin now. Conversely if there is clearly no likelihood of negotiating an acceptable solution now there may be advantages in putting the Berlin question "on ice" for a period of years in the hope that progress in the solution of other questions will improve the chances for a solution of the Berlin question.

(2) The Berliners are strongly opposed to the establishment of a time limit on any Berlin agreement. They fear that such an arrangement would have a disastrous effect on the morale of the Berliners and on the investment pattern of the city. The setting of such a "time bomb" in their opinion would inevitably have profound repercussions on the willingness of West Germans to keep, or increase, their investments in Berlin. They believe that a failure of business confidence in Berlin would undermine the independence of the city.

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(3) Postponement of a settlement postpones the difficult problem of dealing with the "GDR" which would probably be involved in a fully negotiated settlement at this time. Recognition of the GDR would have two strong disadvantages for us. (a) It would be interpreted by the East German population, which is presently anti-Communist and anti-Russian, as the West writing them off completely. This would greatly strengthen the Communist bloc. (b) It would acerbate US-West German relations and be interpreted as a repudiation of the US obligation to work for German reunification. This would therefore represent a major reversal of US policy.

B. Western Tacit Concurrence in Withdrawal of Soviets from Operative Responsibility for Access to Berlin in Return for Acceptance by "GDR" Authorities of the Present Arrangements in Berlin.

A proposal along these lines was discussed by the Four Power Working Group but was not approved by Governments. It appeared as the "Alternative C" solution in the Berlin Section of the London Working Group report. It envisaged a declaration by the "GDR" authorities that they would observe existing access procedures. The USSR would associate itself with this declaration. The Four Powers would declare that they would not use or threaten force to overthrow existing arrangements. The Federal German Republic and the East German authorities would make similar separate declarations. A UN special representative in Berlin would observe execution and assist in technical discussions. (For the text of this proposal see Tab C).

This proposal would not involve any alteration in the status of Berlin. The Western Powers would continue to maintain that they have absolute and unqualified rights until Berlin is once more the capital of a unified Germany. But although they would in theory continue to hold the Soviet Government responsible for the fulfillment of its obligation to the Three Powers in relation to their presence in Berlin and freedom of access thereto, the "GDR" would be brought into the picture through the "GDR" declaration amounting to a sort of self-denying ordinance whereby it publicly agreed it would not interfere.

In view of the fact that the "GDR" considers interference with access to Berlin one of its most effective weapons in its fight for greater recognition it is doubtful that the Soviet Union and the "GDR" would agree to a solution along these lines.

This proposal was opposed by the German and French Governments during the Four Power Working Group meetings on the ground that it amounted to Western tacit acceptance of the end of Soviet responsibility for access as

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well as a tacit recognition of the "GDR." In their opinion such a solution - particularly in view of the lack of a clear definition of procedures governing access - would inevitably lead to disputes between the Western officials and "GDR" officials - and thus to dealings between them.

2. Changes in the Status of Berlin

Basic to all the following proposals is the substitution of a new agreement on the status of Berlin negotiated by the Four Powers for its present status derived from the defeat and unconditional surrender of Germany. A new negotiated agreement, if its terms are acceptable, may prove a more permanent basis for Berlin's independence than the present one. Some continental lawyers question that the International Court of Justice would uphold the Western case on Berlin.

Objections to such a course are based on the argument that the present Western rights are unqualified and furthermore the Soviet Government might subsequently denounce or modify any new quadripartite agreement on the grounds either that circumstances had changed or that it was not being properly observed by the Western Powers.

Additional considerations are that any change in status must be acceptable to the West Berliners and the West Germans. Any agreement, no matter how sound intrinsically, which alarms the West Berliners and sets off a panic there would immediately be discredited and would be heralded by the World as Western capitulation to the Soviet Union. Furthermore, any settlement which antagonizes the West Germans would ipso facto make the Soviets successful in one of their major Soviet objectives -- the splitting of the Western Alliance.

A. Suspension of Rights

The Western Powers would suspend the exercise of occupation rights while an agreement on Berlin was being carried out but would not take any action designed to affect either those rights or Berlin access. Representative of the UN Secretary General might be stationed in Berlin to monitor broadcasts and handle refugees. (For text of such a proposal see Tab D). The proposal was rejected in the first Geneva conference on the ground that it amounted to a de facto renunciation of allied occupation rights -- a proposal which was not being contemplated in the quadripartite working group. Such a suspension of rights unless accompanied by -- or in fact preceded by -- the negotiation

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of a satisfactory agreement to take its place would be ill-advised.

B. Guaranteed City

The Four Powers would agree to guarantee West Berlin security and access, and the Western Powers would simultaneously agree to terminate the exercise of occupation rights. The West Berlin Magistrat would be empowered to request that foreign troops up to a stated ceiling be stationed in West Berlin and the Four Powers would agree to supply and maintain any forces so requested from any of them. Full and unrestricted access for these troops would be guaranteed. The agreement would be registered with the UN and a representative of the UN Secretary General would supervise its fulfillment. (For an example of a proposal along these lines see Tab E).

In any such agreement it would be important to stress that the status of Berlin is provisional pending reunification. Both West Berliners and West Germans have been bitterly critical of the Soviet Free City Proposal and discussions of a Danzig-type solution. They view such proposals as steps backwards away from their major goal of reunification -- as the creation of a third German state. Berliners are also very much concerned over any weakening of the links between Berlin and the Federal Republic for they believe their livelihood depends upon maintaining the closest possible connections. Berlin's economic life is largely dependent on uninterrupted trade with the Federal Republic, orders and investments from West Germany and direct subsidies and rebates provided by the Federal Government. Any solution along the lines of a guaranteed city must provide that these links are not weakened. Thirdly the West Berliners must be made to believe that any change in status does not weaken western responsibility for the city.

C. The Eleventh Land Solution

The Allied occupation would be terminated and West Berlin incorporated in the Federal Republic as an Eleventh Land. Provision would be made to maintain the presence of the Allied forces at the request of either the Federal Republic or the Berlin Magistrat. These troops would be responsible for the security of the city. The legal rights of the Allies to remain in and have unrestricted access to Berlin under these circumstances would have to be specifically provided for. If legally a part of the territory of the Federal Republic the question would have to be clearly settled whether the city's security became a direct NATO responsibility. Concurrently an agreement for a land and air corridor -- possibly only a single corridor -- between West Berlin and the Federal Republic would have to be worked out. (See Tab F).

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It is questionable that the Soviet Union would ever agree to the incorporation of West Berlin into the Federal Republic. She is heavily committed to the position that Berlin belongs to the "GDR" and has represented her "Free City" offer as a great concession. The offer, however, has attractive features. It does not lay itself open to the criticism of a city separated from the Federal Republic. Nevertheless it fully responds to the insistence of the Soviet Union that the occupation of Berlin must be terminated. It highlights the Soviet aim of making Berlin into a Communist city if the Soviet Union rejects the plan.

It should be recalled, however, that every time the idea of incorporating Berlin in the Federal Republic has been raised the Federal German Government has shied away from it and has shown no inclination whatever to assume additional responsibilities for Berlin.

D. Trusteeship

Terms of trusteeship, placing West Berlin under an Administering Authority composed of the German Federal Republic, France, Great Britain, and the U.S. would be submitted to a West Berlin plebiscite and then to the UN Security Council for approval. Four Power agreement would also provide for (1) the retention of the present relations between West Berlin and the Federal German Republic, (2) unrestricted access between West Berlin and the West along an adequate corridor and the stationing in Berlin of troops up to a given number from a country or countries at the request of the West Berlin Magistrat. Unrestricted access would be provided for these troops. Disputes arising would be handled by a resident commission composed of the Administering Authority, the USSR, and German authorities nominated by the USSR, in consultation with the UN Secretary General or his representative (who would also be in Berlin to observe and facilitate fulfillment of the agreement). Disputes not settled within a stated period could be referred to the ICJ (For a proposal along these lines see Tab G).

This proposal is attractive but it is doubtful whether the West would be able to hold the line on it in public opinion if the Soviet Union called for a debate on the proposal in the UN and proposed modifications which would eliminate the protections which the Berliners now feel they have from the presence of Western troops. For example a Soviet proposal that the Governing Authority include a neutral and a representative of Communist bloc might be difficult to defeat. Amendments might also be introduced calling for the reference of any question involving Berlin to the Security Council. The composition of the troops in Berlin might be altered -- or they might be instructed to act only on the basis of directives from the United Nations.

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Another objection is that such a trusteeship arrangement in the German mind carries the connotation of Danzig and implies the permanent division of Germany into three political entities.

There is of course also the original Soviet "Free City" proposal of November 27 which the Western Powers have held to be unacceptable. A special study of this proposal has been prepared by S/P.

3. Linking a solution of the Berlin Problem with a Discussion of German Reunification.

The USSR has refused to discuss German reunification on any other terms than the promotion of direct negotiations between the Government of the Federal German Republic and the "GDR" regime. An example of a new proposal in this field would be the Western proposal that the Western powers would undertake to deny atomic weapons to the army of the reunified Germany. This might be resisted by Chancellor Adenauer, but it would theoretically be entirely in the power of the Three Western Powers to make such a commitment. Although it is questionable that it would be sufficient to win over the Soviet Union to reunification based on free elections it would be valuable in reassuring Poland and Czechoslovakia and might even make them advocates of reunification if this would free them from the bogey of a future German army equipped with atomic weapons.

Similarly some important German initiative relative to the Oder-Neisse line might be introduced in this context.

Additional Possibilities

The proposals in the preceding paragraphs might be described as "generic possibilities" to which numerous specific variations could be added. Supplementary features such as provisions for limiting troop levels and armaments and controlling undesirable activities along the lines of the Western proposals at Geneva could be combined with any of them in varying degrees and combinations. Various methods for guaranteeing free access, such as providing for a guaranteed corridor or the supervision of access routes by Four Power or UN supervisory machinery could also be added to most of them. UN participation could be envisaged in varying capacities.

No attempt has been made in this paper to discuss these combinations and permutations in any detail. It seems advisable to postpone elaborations of this type until guidelines have been drawn regarding the generic possibilities by which to limit the multiplicity of possible variations. However, in order

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to illustrate how several of these possibilities can be blended together and in the belief that additional advantages can be gained from such a blend, a possible solution is discussed in greater detail involving an alteration in the basis for the Western presence in, and responsibility for, West Berlin.

While it suffers from the deficiencies any new proposal on Berlin involves, it is believed that this proposal might not be construed by the Berliners as a "status quo minus" proposal. The basic idea is to meet the Soviet point that the occupation of Berlin is no longer justified after so many years. We might concede that point by agreeing as part of a package arrangement that we would go through the legal fundamentals of transferring to the existing West Berlin authorities all of the power to govern Berlin affairs now residing in the Occupation Authorities. What is envisioned is a legal arrangement closely paralleling the arrangement under which substantial sovereignty was given to the Federal Republic. The Occupation Authorities would retain only the rights necessary to ensure that upon the reunification of Germany Berlin could once more become its capital. The West Berlin Government would be free to request the former Occupying Powers to continue to station forces in Berlin. The function of the forces would be to act as a security force to guarantee against encroachment of the freedom of the people of Berlin. The Berlin Government would be free at any point to invite the forces of the former occupants to leave. This would be done presumably at any point at which West Berlin was able to make other arrangements which effectively guaranteed its security. This might happen as a result of an agreement on the stationing of Federal Republic forces in West Berlin. We might agree with the Soviets that the security forces could in no event exceed the present number.

West Berlin would be free to make any legal arrangement with the Federal Republic it chose. The institution of the Mantelgesetz could be continued. West Berlin and the Federal Republic could, if both agreed, make West Berlin a Land of the Federal Republic. It can be assumed that it would seek to establish as close a tie to the Federal Republic as the Federal Republic is prepared to accept.

So long as there are any NATO forces stationed in Berlin as a security force any attack on those forces would bring the provisions of Article 5 of the North Atlantic Treaty into play. The Protocol to the North Atlantic Treaty on the accession of Greece and Turkey provides that "An armed attack on one or more of the parties is deemed to include an armed attack on the forces of any of the Powers when in.....any other area of Europe in which occupation forces of any of the Powers were stationed on the date when the Treaty entered into force....." This is an important element in the maintenance of morale in Berlin and an effective guarantee against the swallowing

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up of Berlin. The presence of the troops, which in turn covers West Berlin with the protection of NATO, guarantees against any suggestion that this proposal is a "status quo minus" proposal.

Such a proposal represents a radical change in the Western position in Berlin. If such an agreement could be negotiated it may represent from many points of view a more satisfactory basis for the protection of the city than the present one. However, its effectiveness would be vitiated if it were not accepted with confidence by the Berliners and the West Germans.

Attachments:

- Tab A - Text of Western Proposal of July 28.
- Tab B - Draft Declaration on Berlin, dated October 16, 1959.
- Tab C - Alternative C of Berlin Section of London Working Group Report.
- Tab D - Suspension of Rights Proposal.
- Tab E - Guaranteed City Proposal.
- Tab F - Incorporation of Berlin in the Federal Republic.
- Tab G - A Trusteeship Proposal.

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TAB A

TEXT OF WESTERN PROPOSAL OF JULY 28

Berlin

The Foreign Ministers of France, the United Kingdom, the United States and the Union of Soviet Socialist Republics have examined the question of Berlin in the desire to find mutually satisfactory solutions to the problems which have been raised and which derive essentially from the division of Berlin and of Germany. They agreed that the best solution for these problems would be the reunification of Germany. They recognize, however, that meanwhile the existing situation and the agreements at present in force can be modified in certain respects and have consequently agreed upon the following:

(A) The Soviet Foreign Minister has made known the decision of the Soviet Government no longer to maintain forces in Berlin.

The Foreign Ministers of France, the United Kingdom and the United States declare that it is the intention of their Governments to limit the combined total of their forces in Berlin to the present figure (approximately 11,000). The three Ministers further declare that their Governments will from time to time discuss the possibility of reducing such forces if developments permit.

(B) The Foreign Ministers of France, the United Kingdom and the United States further declare that it is the intention of their Governments to continue not to locate atomic weapons or missile installations in West Berlin.

(C) Free and unrestricted access to West Berlin by land, by water, and by air for all persons, goods and communications, including those of the forces of the Western Powers stationed in Berlin, will be maintained in accordance with the procedures in effect in April 1959. Freedom of movement will continue to be maintained between East and West Berlin. All disputes which might arise with respect to access will be raised and settled between the four Governments. The latter will establish a quadripartite commission which will meet in Berlin to examine in the first instance any difficulties arising in connection with access and will seek to settle such difficulties. The commission may make arrangements, if necessary, to consult German experts.

(D) Measures will be taken, consistent with fundamental rights and liberties, to avoid activities in it with respect to Berlin which might either disturb public order or seriously affect the rights and interests, or amount to interference in the internal affairs of others. The Secretary General of the United Nations will be requested to provide a representative, supported by adequate staff, to be established in Berlin, with free access to all parts of the city for the purpose of reporting to the Secretary General any propaganda activities which appear to be in conflict with the foregoing principles. The four Governments will consult with the Secretary General in order to determine the appropriate action to be taken in respect to any such report.

(E) The arrangements specified in sub-paragraphs (A) through (D) above can in the absence of reunification be reviewed at any time after five years by the Foreign Ministers' Conference as now constituted, if such review is requested by any of the four Governments.

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SECRETSUGGESTED DECLARATION ON BERLIN

The Four Powers having responsibility for Berlin DECLARE

I. That atomic weapons or missile installations will not be located in Berlin;

II. That on a reciprocal basis measures will be taken, consistent with fundamental rights and liberties, to avoid activities in or with respect to Berlin which might either disturb public order or seriously affect the rights and interests, or amount to interference in the internal affairs, of others;

III. That access to West Berlin will be maintained in accordance with the procedures now in effect;

The Four Powers moreover NOTE:

I. The declaration of the Soviet Government that it does not intend to maintain forces in Berlin and the declaration of the Governments of France, United Kingdom and the United States that they do not intend to increase their forces in West Berlin above their present level.

The Four Powers also AGREE:

I. That disputes which may arise concerning the conduct of the Four Powers pursuant to this declaration will be raised and settled among the Four Powers;

II. That the terms of this declaration shall remain effective for three years, after which any of the Four Powers shall be entitled to propose a change. In that event, the Four Powers agree that the discussions will be resumed on the understanding that the existing rights and responsibilities of the Four Powers concerning Berlin and access to the city are not affected or impaired by this declaration.

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TAB C

ALTERNATIVE C OF BERLIN SECTION OF LONDON WORKING GROUP
REPORT AS PROPOSED BY US AND UK DELEGATIONS*

The Western Powers would maintain that:

- (A) they consider that they have absolute and unqualified rights until Berlin is once more the capital of a reunified Germany. They have obligations towards the inhabitants of West Berlin. For this purpose Allied troops must remain in West Berlin and freedom of communications between West Berlin and the Federal Republic must be maintained in the same general conditions as hitherto;
- (B) they continue to hold the Soviet Government responsible for the fulfillment of its obligations to the Three Powers in relation to their presence in Berlin and freedom of access thereto;
- (C) since it is clear that no progress can be made on the juridical aspects of the problem they are prepared, while fully reserving their position as regards existing rights and obligations, to make an arrangement which would include the following elements:
 - (1) The East German authorities would make a public declaration (not addressed to anyone in particular) that pending German reunification:
 - (a) They will not deviate from existing procedures (i.e. the procedures that were followed during a specified period, such as April, 1959) regarding Allied military traffic to Berlin.
 - (b) They will be governed by the Four Power Communique issued in Paris on June 20, 1949, in procedures relating to civilian traffic.
 - (2) The Soviet Government would associate itself with the D.D.R. declaration.
 - (3) The Four Powers would make public declarations that they will not use or threaten force to overthrow existing arrangements regarding the government or administration of Berlin. Separate declarations would be made by the Federal Republic and by the East German authorities to the same effect.
 - (4) The Four Powers would conclude an agreement whereby a United Nations Special Representative and a limited number of United Nations observers would be established in Berlin in order to confirm that existing procedures were being maintained concerning free access to and from Berlin. They would also confirm that the undertakings in paragraph 3 above were being adhered to. The agreement concerning the Special

Representative

*The French delegation suggested alternative language for several sections of this proposal.

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Representative and his functions would be worked out directly between the Four Powers, not by the United Nations. The Four Powers would then request the Secretary General of the United Nations to appoint a United Nations Special Representative to perform the limited and specific role called for in the Four Power agreement. The agreement would provide for United Nations observers to be stationed in both West and East Berlin (possibly including the Air Safety Centre), and at the access checkpoints, and would engage in patrols as needed along the surface routes of access. They could, if they wished, offer local assistance to the interested parties in any technical discussions as to whether the declarations were being adhered to in specific instances. A special building could be provided in Berlin to house the United Nations personnel and to provide space for any meetings or United Nations subsidiary organs that might be held in Berlin and for any United Nations activities that might take place in Berlin.

Note: In connection with this proposal, it should be noted that the United Nations would not be assuming any responsibility for the maintenance of the Western right of access and that the Three Powers would continue to hold the Soviet Government responsible for their rights and would approach the Soviet Government, not the United Nations, regarding any violation. UN personnel would not report to the Security Council or General Assembly but would operate directly with the parties concerned regarding any difficulties. Any reports from UN personnel would go ultimately to the Secretary General. It would create the possibility that UN ~~observers~~ might play a role in technical disputes as to whether existing access procedures were being observed in specific instances, which could make it possible to avoid or minimize Western dealings with East German authorities in such specific disputes. If we did not wish the UN ~~observers~~ to assume this role they would not do so, since this would be dependent on the desires of the interested parties. The UN observers would not play any role in arbitrating disputes or enforcing our rights; they would have no responsibility related to the Government of Berlin or to the presence of Allied forces in Berlin. Despatch of these observers would be by the UN Secretary General, acting on his authority and by request of the Four Powers; the UN General Assembly and/or Security Council need not be involved. UN personnel should preferably be from countries not directly interested in the Berlin program.

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SECRETSUSPENSION OF RIGHTS PROPOSAL

The Governments of the United States, United Kingdom, USSR, and France,

Desiring to make renewed efforts to achieve a final peace settlement for Germany,

Recalling that, pending reunification of Germany and a final peace settlement, they have retained the rights and responsibilities heretofore exercised or held by them relating to Berlin and to Germany as a whole,

Bearing in mind the arrangements entered into among themselves concerning the administration of and access to Berlin,

Agree as follows:

1. Effective January 1, 1960, they will suspend the exercise of their existing rights as occupying powers in Berlin and this suspension shall continue until Berlin becomes the capital of a United Germany, so long as the provisions of this agreement are being carried out.

2. The parties hereto may agree with the appropriate local authorities of Berlin, that their respective forces, not in excess of 5,000 each, may remain in their respective sectors of Berlin.

3. Free and unrestricted access to Berlin, by land, by water, and by air, shall continue to be maintained for all persons, including the forces referred to in the preceding paragraph, goods, and communications, in accordance with the procedures in effect on April 29, 1959, providing that any party hereto if, and to the extent it so desires, may make use of personnel of German nationality in carrying out these procedures;

4. So long as the provisions of this agreement are being carried out, none of the parties hereto will use force or take any other action designed to affect the rights referred to in paragraph 1 or the access referred to in paragraph 3 hereof.

5. None of the parties hereto will carry on in the greater Berlin area espionage or subversive activities.

6. No inflammatory broadcasts directed against any party to this agreement should emanate from the greater Berlin area. The parties hereto agree among themselves not to sponsor such broadcasts and undertake to enter into agreements with the appropriate local authorities of Berlin to ensure that no such broadcasts sponsored by others will be made from greater Berlin during this same period.

7. For the

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7. For the duration of this agreement, facilities shall be made available to duly authorized representatives of the Secretary General of the United Nations for the purposes of:

- a. Monitoring all radio broadcasts emanating from the greater Berlin area in order to report to the Secretary General samples representative of the nature of such broadcasts; and
- b. Forwarding to an appropriate destination any person entering any sector of Berlin and claiming political asylum there. Such persons shall be handed over to the custody of such representatives without delay or prior interrogation.

8. Any dispute as to the interpretation or application of this agreement will be referred for decision to the International Court of Justice.

For the United States:

For the United Kingdom:

For the Union of Soviet Socialist Republics:

For the French Republic:

Amb. Thompson:LEBecker:imf:dg
5/22/59

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TAB E

GUARANTEED CITY PROPOSAL

Consideration should be given to alleviation of tensions in Berlin by a guarantee for West Berlin, pending the reunification of Germany, along the following lines:

(a) West Berlin would retain all of its political, economic and social relations with the Federal Republic of Germany.

(b) West Berlin would be guaranteed against threats to its security. At the request of the West Berlin Magistrat, foreign forces up to a total of _____ troops might be stationed in West Berlin for its protection. These forces would be of the nationality or nationalities specified by the Magistrat. They would be armed with conventional weapons only.

(c) Access to Berlin by land, by water, and by air for all persons, goods and communications, including those of the forces stationed in West Berlin, would be maintained in accordance with the procedures in effect in April 1959. All disputes which might arise with respect to access would be raised and settled between the four governments except that a resident four-power commission would be established in West Berlin which would in the first instance consider any difficulties arising in connection with access and would seek to settle such difficulties. This commission would make use of German advisers as necessary. If the four powers were unable to settle a dispute within _____ months after its first consideration by the commission, they would refer it to the International Court of Justice for settlement.

(d) Measures would be taken, consistent with fundamental rights and liberties to avoid activities within or directed at Berlin which tend to incite civil strife or aggression or otherwise disrupt public order.

(e) The exercise of occupation rights in Berlin would be suspended. After a period of _____ years, a plebiscite would be held in West Berlin to choose between continuation of the proposed agreement and return to the status quo ante. If approved by the plebiscite, the Guaranteed City status would continue until the reunification of Germany.

(f) The proposed agreement would be signed by the Four Powers. They in turn would secure the acceptance by other powers or authorities of the terms of the agreement as may be necessary.

(g) The Guaranteed City Agreement, as defined above, would be registered with the United Nations. A representative of the Secretary General of the United Nations, supported by an adequate staff, would be established in Berlin, with free access to all parts of the city and its access routes from the West in order to help facilitate fulfillment of the terms of this agreement, and to report to the Secretary General any activities which appear to be in conflict therewith. The four governments would consult with the Secretary General in order to determine the appropriate action to be taken in regard to any such report.

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Based on Memorandum of July 2, 1959 to the Secretary from S/P - Mr. Smith, Entitled "Next Move at Geneva".

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CONFIDENTIALIncorporation of Berlin into the Federal Republic

The suggestion has frequently been made that Berlin (in practice only West Berlin) be incorporated into the Federal Republic. This suggestion takes various forms. One is that Berlin be allowed to become a full-fledged land of the Federal Republic but that some special provision be made to maintain the presence of the Allied forces, which would remain responsible for the security of the city. Some formula, perhaps a variant of the "contractual agreement" idea, could be worked out to cover such a situation, but the question obviously arises whether the Western Powers would still be able to assert in a convincing fashion their legal rights to remain in Berlin and to have unrestricted access to Berlin on the basis of occupation following conquest and four-power agreements and arrangements. A decision which would have to be taken if Berlin became legally a part of the territory of the Federal Republic is whether its security would then be a direct NATO responsibility, rather than an immediate responsibility of the Three Powers. The suggestion has also been made that, after Berlin became a part of the Federal Republic, the Bundeswehr might relieve the Allied forces of their responsibility for the city and that the latter might withdraw. Still another variant is that Berlin might be "de-militarized" and that its security might be assured by the Berlin police.

It seems likely that any proposal for the incorporation of Berlin into the Federal Republic would be denounced by the Soviets, but the action is not one which would require Soviet approval. It is also possible that the Soviets might tolerate such an arrangement under certain conditions, for example, if the forces of the Three Powers were withdrawn from the city and West Berlin were, at the same time, sealed off from the Communist-controlled area.

The arguments in support of incorporating Berlin into the Federal Republic are on various planes and are not necessarily consistent. The most common line of argument is that such action would not provoke the Soviets to undertake any harassment of Berlin which they would not take anyway and that, since the support of the Federal Republic is as important to maintaining Berlin as is the presence of the Allied Forces, Berlin's security would be enhanced by the closest possible connection with the Federal Republic. It could, however, also be argued that the incorporation of Berlin into the Federal Republic would permit the Western Powers gradually to transfer their responsibilities to the Federal Republic, thus creating a situation in which they could, if they deemed it appropriate, withdraw from Berlin before German reunification can be accomplished.

Whether the Federal Republic could long maintain West Berlin by itself is doubtful, for the Federal Republic would inherit the very problems which plague the Western Powers, including the dilemma of having to maintain access through Berlin by means of some accommodation with the GDR (which would

automatically

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automatically make Berlin more vulnerable than ever to Communist pressures) or by a threat to resort to force (which again involves a risk of general war). It is, however, conceivable that, as the Federal Republic increases in strength and influence, the Soviets will become more concerned about the effect which their harassment of Berlin might have on Soviet-German relations and that the Federal Republic might ultimately be able to bargain with the Soviets regarding Berlin more effectively than the Western Powers can.

In short, it seems that the incorporation of Berlin into the Federal Republic under circumstances in which the Allied forces remained might have some merit as a measure designed to strengthen the Western position in Berlin.

The Federal Government is firmly against making Berlin a full-fledged state at this time, but there is some support for the idea within the Opposition.

Extract from Memorandum of January 9, 1959, entitled "The Possibility of New Initiatives in Connection with Negotiations with the Soviet Union Over the Berlin Crisis".

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A TRUSTEESHIP PROPOSAL

Consideration should be given to alleviation of tensions in Berlin by an agreement, pending the reunification of Germany, along the following lines:

- (a) Terms of Trusteeship, placing West Berlin under an Administering authority composed of the Federal Republic of Germany, the Republic of France, the United Kingdom and the United States of America, would be submitted first to a plebiscite in West Berlin, and then to the UN Security Council for approval. The Four Powers would support such approval. If it were not given, both by the plebiscite and by the Security Council, the Four Governments would reconvene to continue their discussion of Berlin and related questions.
- (b) West Berlin would retain all of its existing relationships with the Federal Republic of Germany.
- (c) The Four Powers would respect and would guarantee the integrity and status of West Berlin under the terms of trusteeship. Troops stationed in West Berlin by the Western Powers would not exceed _____ in number and would be armed with conventional weapons only. *
- (d) Access to Berlin by land, by water and by air for all persons, goods and communications, including those of the Western forces stationed in West Berlin would be maintained in accordance with the procedures in effect in April 1959.
- (e) Measures would be taken, consistent with fundamental rights and liberties, to avoid activities within or directed at Berlin which tend to incite civil strife or aggression or otherwise disrupt public order.
- (f) The proposed agreement would be signed by the Four Powers. They in turn would secure the acceptance by other powers or authorities of the terms of the agreement as may be necessary.
- (g) A representative of the Secretary General of the United Nations, supported by an adequate staff, would be established in Berlin, with free access to all parts of the city and its access routes from the West, for the purpose of facilitating fulfillment of the terms of this agreement, and reporting to the Secretary General any activities which appear to be in conflict therewith. The Administering Authority and the USSR would consult with the Secretary General in order to determine the appropriate action to be taken in regard to any such report.
- (h) All disputes which might arise with respect to fulfillment of the terms of this agreement would be considered in the first instance by a resident commission, established in West Berlin, in consultation with the UN Secretary General or his representative. The commission would be composed of representatives of the Administering Authority, the USSR, and of such German authorities as might be nominated by the USSR. If the commission were unable to settle a dispute within _____ months, the dispute could, at the request of any of the Four Powers, be referred to the International Court of Justice for settlement.

Annex: Elements of a Draft Trusteeship Agreement.

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ELEMENTS OF A DRAFT TRUSTEESHIP AGREEMENT

Most of the provisions that are customary in trusteeship agreements could be used, after appropriate modification to fit the case of West Berlin.

The four-power agreement on Berlin should be included in the "whereas" clauses of the preamble, in order to get the whole agreement registered with the UN.

The purpose of enabling West Berlin to live its own life and maintain its ties with the West until the reunification of Germany should also be stated in the preamble.

This agreement would provide for its automatic termination when Germany is reunited.

The ceiling on troops and limitation to conventional armaments could be stated.

Based on Memorandum of July 8, 1959 to the Secretary from S/P _ Mr. Smith
Entitled "Berlin Alternatives".

*A provision should be added specifying that no troops would be stationed in West Berlin unless requested by the West Berlin Magistrat, authorizing the Magistrat to request troops up to an agreed ceiling from one, several or all of the Four Powers and committing each of the Four Powers to supply troops if requested in the numbers requested.

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Office Memorandum • UNITED STATES GOVERNMENT

TO : EUR - Mr. Foy D. Kohler

DATE October 19, 1959

FROM : OER - Martin J. Hillebrand

SUBJECT: Addition of Oder-Weisse Initiative by Federal Republic to Possible
Western Proposals on Berlin

To supplement my memorandum to you of October 16, 1959, regarding substantive preparations for a Summit meeting, there is attached a memorandum prepared in OER discussing the possibility of adding an Oder-Weisse initiative by the Federal Republic to Western proposals on Berlin. As I understand it, Mr. Murphy expressed the wish that this possibility be considered.

Attachment:

As stated.

CC:

C - Mr. Reinhardt
O - Mr. Merchant
S/P - Mr. Owen
SOV - Mr. Davis
Mr. McGowney
L/EUR - Mr. Kearney

100-361167-10-3007

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An Additional Proposal on Berlin

A proposal to connect the Oder-Neisse Line issue with the Berlin question provides a new variant to add to the possibilities for a new Berlin proposal at a coming Summit Meeting.

In the past the proposal has often been made that a German offer to recognize the Oder-Neisse Line as the permanent eastern boundary of Germany should be linked with a Western proposal for the reunification of Germany. It has been argued that this would be a possible quid pro quo for reunification which would make the USSR more likely to agree to it. A watered-down version of this idea is the proposal that the Federal Government should give Poland and Czechoslovakia a specific assurance that it would never use force to alter the present eastern boundaries of the eastern part of Germany. This second idea was considered in connection with the planning for a Western offer on reunification to be made last summer at Geneva. However, it was never actually used.

The idea of associating offers of this kind with a Berlin settlement has not been discussed in the past. It might provide a means of increasing the attractiveness to the USSR of a western offer on Berlin. It could be added to any of a number of proposals. In order to illustrate how it might be used the proposal has been worked into a standstill proposal in TAB A.

It must be remembered, however, that there is little disposition on the part of Chancellor to make offers at the present time regarding the eastern frontiers of Germany or the opening of diplomatic relations with any of the satellites.

The Chancellor has apparently been convinced by his chief adviser on domestic political affairs that the refugee vote in Germany will be crucial for the outcome of the 1961 elections and that any actions which would antagonize them might cost the CDU its control of the government. Accordingly the Chancellor has rejected proposals by the German Foreign Office for reopening diplomatic relations with Poland. The Oder-Neisse Line issue is an even more sensitive issue in German refugee groups than that of relations with Poland and it therefore seems probable that the Chancellor would strongly resist any proposals to renounce German claims to Oder-Neisse territory as a quid pro quo for a Berlin settlement.

Attachment:

A Proposal on Berlin
and the Oder-Neisse Line

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A PROPOSAL ON BERLIN AND THE ODER-NEISSE LINE

The Four Powers having responsibility for Berlin

DECLARE

I. That atomic weapons or missile installations will not be located in Berlin;

II. That on a reciprocal basis measures will be taken, consistent with fundamental rights and liberties, to avoid activities in or with respect to Berlin which might either disturb public order or seriously affect the rights and interests or amount to interference in the internal affairs, of others;

III. That access to West Berlin will be maintained in accordance with the procedures now in effect;

The Four Powers moreover NOTE:

I. The declaration of the Soviet Government that it does not intend to maintain forces in Berlin and the declaration of the Governments of France, United Kingdom and the United States that they do not intend to increase their forces in West Berlin above their present level.

The Four Powers also AGREE:

I. That disputes which may arise concerning the conduct of the Four Powers pursuant to this declaration will be raised and settled among the Four Powers;

II. That the terms of this declaration shall remain effective for three years, after which any of the Four Powers shall be entitled to propose a change. In that event, the Four Powers agree that the discussions will be resumed on the understanding that the existing rights and responsibilities of the Four Powers concerning Berlin and access to the city are not affected or impaired by this declaration.

The Four Powers note with approval the declaration of the Federal Republic of Germany that:

[it has renounced the use of force in the settlement of international disputes and is prepared to conclude bilateral treaties of non-aggression with the Governments of Poland and Czechoslovakia pursuant to this renunciation.]

or [it recognizes as the permanent frontier of Germany the line running from the Baltic Sea immediately west of Swinamunde, and thence along the Oder River to the confluence of the western Neisse River and along the western Neisse to the Czechoslovak frontier and renounces all right, title and claim to the former German territories east of this line.]

October 16, 1959

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